

SENATE, No. 1524

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:

Senator LORETTA WEINBERG

District 37 (Bergen)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides that crime victims do not have to pay fees to obtain government records and that requests for records are not public information.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2014)

1 AN ACT concerning victims of crime and amending P.L.2012, c.27
2 and P.L.1995, c.23.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 3 of P.L.2012, c.27 (C.52:4B-36.2) is amended to
8 read as follows:

9 3. Pursuant to Article I, paragraph 22 of the New Jersey
10 Constitution~~], no~~:

11 a. A crime victim shall not be required to pay the maintenance,
12 support, rehabilitation, or other costs arising from the imprisonment
13 or commitment of a victimizer as a result of the crime; and

14 b. A crime victim, or alleged crime victim, shall not be charged
15 any fee otherwise prescribed by law or regulation to obtain copies
16 of a record relating to that person's victimization or alleged
17 victimization, including, but not limited to, any law enforcement
18 agency report, domestic violence offense report, and temporary or
19 permanent restraining order.

20 (cf: P.L.2012, c.27, s.3)

21
22 2. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to
23 read as follows:

24 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended
25 and supplemented:

26 "Biotechnology" means any technique that uses living
27 organisms, or parts of living organisms, to make or modify
28 products, to improve plants or animals, or to develop micro-
29 organisms for specific uses; including the industrial use of
30 recombinant DNA, cell fusion, and novel bioprocessing techniques.

31 "Custodian of a government record" or "custodian" means in the
32 case of a municipality, the municipal clerk and in the case of any
33 other public agency, the officer officially designated by formal
34 action of that agency's director or governing body, as the case may
35 be.

36 "Government record" or "record" means any paper, written or
37 printed book, document, drawing, map, plan, photograph,
38 microfilm, data processed or image processed document,
39 information stored or maintained electronically or by sound-
40 recording or in a similar device, or any copy thereof, that has been
41 made, maintained or kept on file in the course of his or its official
42 business by any officer, commission, agency or authority of the
43 State or of any political subdivision thereof, including subordinate
44 boards thereof, or that has been received in the course of his or its
45 official business by any such officer, commission, agency, or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 authority of the State or of any political subdivision thereof,
2 including subordinate boards thereof. The terms shall not include
3 inter-agency or intra-agency advisory, consultative, or deliberative
4 material.

5 A government record shall not include the following information
6 which is deemed to be confidential for the purposes of P.L.1963,
7 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

8 information received by a member of the Legislature from a
9 constituent or information held by a member of the Legislature
10 concerning a constituent, including but not limited to information in
11 written form or contained in any e-mail or computer data base, or in
12 any telephone record whatsoever, unless it is information the
13 constituent is required by law to transmit;

14 any memorandum, correspondence, notes, report or other
15 communication prepared by, or for, the specific use of a member of
16 the Legislature in the course of the member's official duties, except
17 that this provision shall not apply to an otherwise publicly-
18 accessible report which is required by law to be submitted to the
19 Legislature or its members;

20 any copy, reproduction or facsimile of any photograph, negative
21 or print, including instant photographs and videotapes of the body,
22 or any portion of the body, of a deceased person, taken by or for the
23 medical examiner at the scene of death or in the course of a post
24 mortem examination or autopsy made by or caused to be made by
25 the medical examiner except:

26 when used in a criminal action or proceeding in this State which
27 relates to the death of that person,

28 for the use as a court of this State permits, by order after good
29 cause has been shown and after written notification of the request
30 for the court order has been served at least five days before the
31 order is made upon the county prosecutor for the county in which
32 the post mortem examination or autopsy occurred,

33 for use in the field of forensic pathology or for use in medical or
34 scientific education or research, or

35 for use by any law enforcement agency in this State or any other
36 state or federal law enforcement agency;

37 criminal investigatory records;

38 victims' records, except that a victim of a crime shall have access
39 to the victim's own records;

40 any written request by a victim or alleged victim for a record
41 relating to that person's victimization or alleged victimization,
42 including, but not limited to, any law enforcement agency report,
43 domestic violence offense report, and temporary or permanent
44 restraining order;

45 personal firearms records, except for use by any person
46 authorized by law to have access to these records or for use by any
47 government agency, including any court or law enforcement
48 agency, for purposes of the administration of justice;

1 personal identifying information received by the Division of Fish
2 and Wildlife in the Department of Environmental Protection in
3 connection with the issuance of any license authorizing hunting
4 with a firearm. For the purposes of this paragraph, personal
5 identifying information shall include, but not be limited to, identity,
6 name, address, social security number, telephone number, fax
7 number, driver's license number, email address, or social media
8 address of any applicant or licensee; trade secrets and
9 proprietary commercial or financial information obtained from any
10 source. For the purposes of this paragraph, trade secrets shall
11 include data processing software obtained by a public body under a
12 licensing agreement which prohibits its disclosure;
13 any record within the attorney-client privilege. This paragraph
14 shall not be construed as exempting from access attorney or
15 consultant bills or invoices except that such bills or invoices may be
16 redacted to remove any information protected by the attorney-client
17 privilege;
18 administrative or technical information regarding computer
19 hardware, software and networks which, if disclosed, would
20 jeopardize computer security;
21 emergency or security information or procedures for any
22 buildings or facility which, if disclosed, would jeopardize security
23 of the building or facility or persons therein;
24 security measures and surveillance techniques which, if
25 disclosed, would create a risk to the safety of persons, property,
26 electronic data or software;
27 information which, if disclosed, would give an advantage to
28 competitors or bidders;
29 information generated by or on behalf of public employers or
30 public employees in connection with any sexual harassment
31 complaint filed with a public employer or with any grievance filed
32 by or against an individual or in connection with collective
33 negotiations, including documents and statements of strategy or
34 negotiating position;
35 information which is a communication between a public agency
36 and its insurance carrier, administrative service organization or risk
37 management office;
38 information which is to be kept confidential pursuant to court
39 order;
40 any copy of form DD-214, or that form, issued by the United
41 States Government, or any other certificate of honorable discharge,
42 or copy thereof, from active service or the reserves of a branch of
43 the Armed Forces of the United States, or from service in the
44 organized militia of the State, that has been filed by an individual
45 with a public agency, except that a veteran or the veteran's spouse
46 or surviving spouse shall have access to the veteran's own records;
47 and

1 that portion of any document which discloses the social security
2 number, credit card number, unlisted telephone number or driver
3 license number of any person; except for use by any government
4 agency, including any court or law enforcement agency, in carrying
5 out its functions, or any private person or entity acting on behalf
6 thereof, or any private person or entity seeking to enforce payment
7 of court-ordered child support; except with respect to the disclosure
8 of driver information by the New Jersey Motor Vehicle
9 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
10 3.4); and except that a social security number contained in a record
11 required by law to be made, maintained or kept on file by a public
12 agency shall be disclosed when access to the document or
13 disclosure of that information is not otherwise prohibited by State
14 or federal law, regulation or order or by State statute, resolution of
15 either or both houses of the Legislature, Executive Order of the
16 Governor, rule of court or regulation promulgated under the
17 authority of any statute or executive order of the Governor.

18 A government record shall not include, with regard to any public
19 institution of higher education, the following information which is
20 deemed to be privileged and confidential:

21 pedagogical, scholarly and/or academic research records and/or
22 the specific details of any research project conducted under the
23 auspices of a public higher education institution in New Jersey,
24 including, but not limited to research, development information,
25 testing procedures, or information regarding test participants,
26 related to the development or testing of any pharmaceutical or
27 pharmaceutical delivery system, except that a custodian may not
28 deny inspection of a government record or part thereof that gives
29 the name, title, expenditures, source and amounts of funding and
30 date when the final project summary of any research will be
31 available;

32 test questions, scoring keys and other examination data
33 pertaining to the administration of an examination for employment
34 or academic examination;

35 records of pursuit of charitable contributions or records
36 containing the identity of a donor of a gift if the donor requires non-
37 disclosure of the donor's identity as a condition of making the gift
38 provided that the donor has not received any benefits of or from the
39 institution of higher education in connection with such gift other
40 than a request for memorialization or dedication;

41 valuable or rare collections of books and/or documents obtained
42 by gift, grant, bequest or devise conditioned upon limited public
43 access;

44 information contained on individual admission applications; and
45 information concerning student records or grievance or
46 disciplinary proceedings against a student to the extent disclosure
47 would reveal the identity of the student.

1 "Personal firearms record" means any information contained in a
2 background investigation conducted by the chief of police, the
3 county prosecutor, or the Superintendent of State Police, of any
4 applicant for a permit to purchase a handgun, firearms identification
5 card license, or firearms registration; any application for a permit to
6 purchase a handgun, firearms identification card license, or firearms
7 registration; any document reflecting the issuance or denial of a
8 permit to purchase a handgun, firearms identification card license,
9 or firearms registration; and any permit to purchase a handgun,
10 firearms identification card license, or any firearms license,
11 certification, certificate, form of register, or registration statement.
12 For the purposes of this paragraph, information contained in a
13 background investigation shall include, but not be limited to,
14 identity, name, address, social security number, phone number, fax
15 number, driver's license number, email address, social media
16 address of any applicant, licensee, registrant or permit holder.

17 "Public agency" or "agency" means any of the principal
18 departments in the Executive Branch of State Government, and any
19 division, board, bureau, office, commission or other instrumentality
20 within or created by such department; the Legislature of the State
21 and any office, board, bureau or commission within or created by
22 the Legislative Branch; and any independent State authority,
23 commission, instrumentality or agency. The terms also mean any
24 political subdivision of the State or combination of political
25 subdivisions, and any division, board, bureau, office, commission or
26 other instrumentality within or created by a political subdivision of
27 the State or combination of political subdivisions, and any
28 independent authority, commission, instrumentality or agency
29 created by a political subdivision or combination of political
30 subdivisions.

31 "Law enforcement agency" means a public agency, or part
32 thereof, determined by the Attorney General to have law
33 enforcement responsibilities.

34 "Constituent" means any State resident or other person
35 communicating with a member of the Legislature.

36 "Member of the Legislature" means any person elected or
37 selected to serve in the New Jersey Senate or General Assembly.

38 "Criminal investigatory record" means a record which is not
39 required by law to be made, maintained or kept on file that is held
40 by a law enforcement agency which pertains to any criminal
41 investigation or related civil enforcement proceeding.

42 "Victim's record" means an individually-identifiable file or
43 document held by a victims' rights agency which pertains directly to
44 a victim of a crime except that a victim of a crime shall have access
45 to the victim's own records.

46 "Victim of a crime" means a person who has suffered personal or
47 psychological injury or death or incurs loss of or injury to personal
48 or real property as a result of a crime, or if such a person is

1 deceased or incapacitated, a member of that person's immediate
2 family.

3 "Victims' rights agency" means a public agency, or part thereof,
4 the primary responsibility of which is providing services, including
5 but not limited to food, shelter, or clothing, medical, psychiatric,
6 psychological or legal services or referrals, information and referral
7 services, counseling and support services, or financial services to
8 victims of crimes, including victims of sexual assault, domestic
9 violence, violent crime, child endangerment, child abuse or child
10 neglect, and the Victims of Crime Compensation Board, established
11 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.).
12 (cf: P.L.2013, c.116 s.1)

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14 3. This act shall take effect on the first day of the fourth month
15 following enactment.

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STATEMENT

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20 This bill would prohibit a crime victim, or alleged crime victim,
21 from being charged any fee that otherwise would be charged to
22 obtain copies of a record relating to that person's victimization or
23 alleged victimization. Under the bill, a victim would not be
24 charged for any law enforcement agency report, domestic violence
25 offense report, or temporary or permanent restraining order.

26 Under the Open Public Records Act (OPRA), victim's records
27 are not considered "government records" and are therefore not
28 subject to public disclosure, except that a victim is entitled to
29 request copies of his or her own records. The bill would also
30 amend OPRA to specify that any written request by a victim for a
31 record relating to that person's victimization or alleged
32 victimization is not a public record.